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ANNEXATION REPORT

THE TOWN OF
HIGHLANDS
NORTH CAROLINA

APRIL 1977

ANNEXATION REPORT

THE TOWN OF HIGHLANDS

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STATE OF NORTH CAROLINA DEPARTMENT OF

ANNEXATION REPORT

FOR

THE TOWN OF HIGHLANDS, NORTH CAROLINA

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April, 1977

ANNEXATION REPORT

FOR

HIGHLANDS, NORTH CAROLINA

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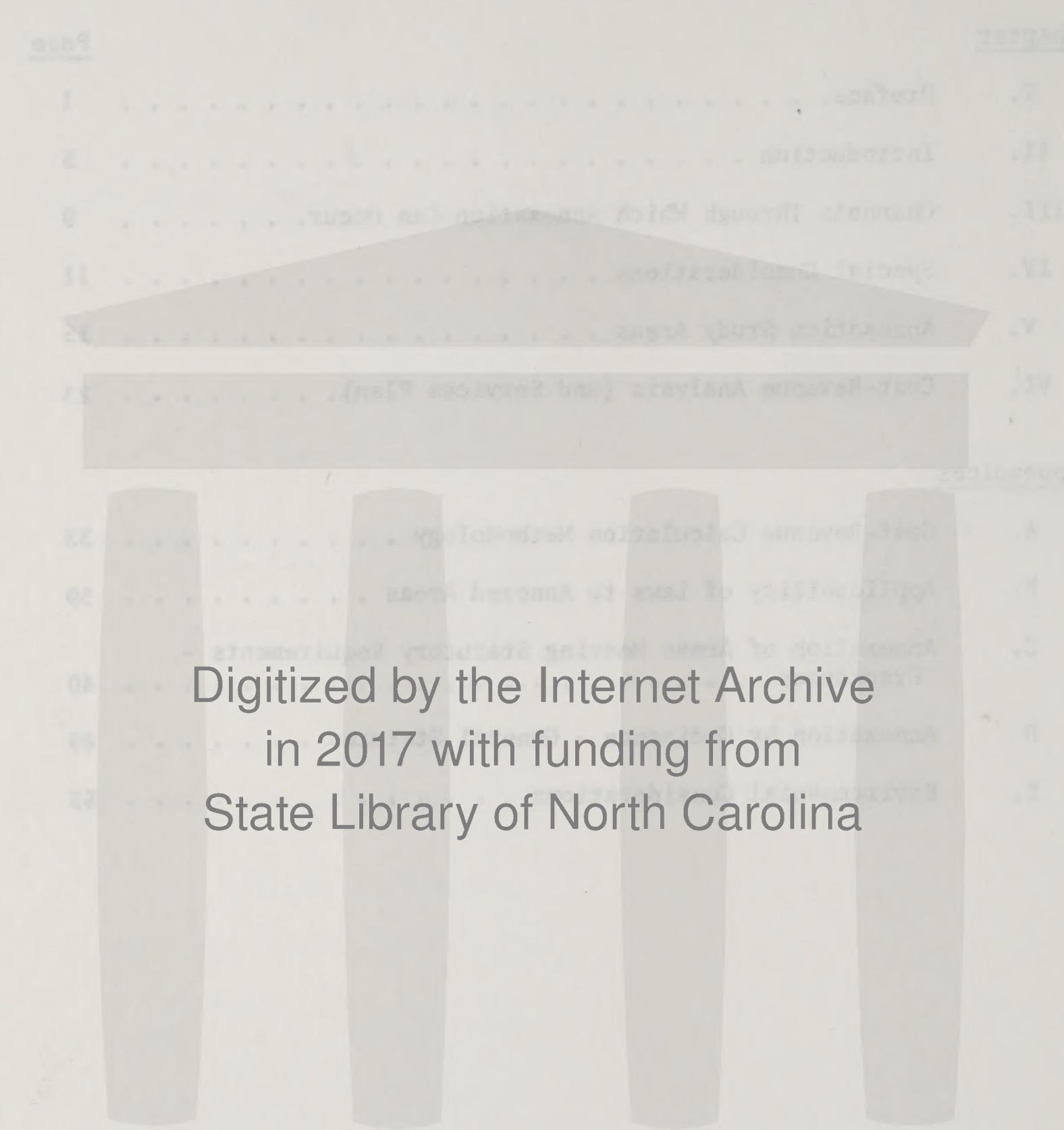
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REPORT DATE:

April, 1977

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I. PREFACE

This document, the Annexation Report for the Town of Highlands, represents the culmination of nearly two years of study regarding opportunities available to the Town of Highlands for extending its corporate boundaries. The specific objective of this research has been to determine if the urban growth taking place along the Town's periphery, most of which is to some degree reliant upon municipal services, can be accommodated by the Town. That is, a) can the development legally be absorbed as a part of the municipal corporation and b) if it is annexable, will it also be an economically sound component of the Town?

In 1975, a study entitled Annexation Feasibility Study for the Town of Highlands was undertaken. This study involved a great deal of research of the Macon County Tax Office's records; it concluded that there were four areas surrounding the Town which could legally be annexed three of which would also render financial benefits. The "Feasibility Study" was followed by the Annexation Potential Study: A Follow-Up Report, undertaken in 1976 independently of the "Feasibility Study". The intent of the "Potential Study" was to critically review, expand, update and comment on the "Feasibility Study" as well as to explore alternatives. In order to avoid confusion to the reader, the "Feasibility Study" should be regarded as having laid the foundation for subsequent annexation activity and the "Potential Study" should be viewed simply as a second opinion. The reader is invited to consult both of these studies in order to gain a more complete understanding of this document, the "Annexation Report".

The primary purpose of the "Annexation Report" is to fill a void left in the wake of the previous studies. That is, whereas the prior research was primarily focused upon examining possibilities and rendering advice in the form of suggestions, recommendations, guidelines, etc., this document is concerned with

complying with the requirements of the North Carolina General Statutes (particularly G.S. 160A-35) for preparing a concise report which presents the Town's final case for annexation. Specifically, the report must include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
 - a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines.
 - b. Provide for extension of water mains and sewer lines into the area to be annexed so that property owners in the area to be annexed will be able to secure public water and sewer services according to the policies in effect in such municip-

pality for extending water and sewer lines to individual lots or subdivisions. If the municipality must, at its own expense, extend water and/or sewer mains into the area to be annexed before property owners in the area can, according to municipal policies, make such connection to such lines, then the plans must call for contracts to be let and construction to begin on such lines within one year following the effective date of annexation.

- c. Set forth the method under which the municipality plans to finance extension of services into the areas to be annexed.

(1959, c. 1010, s.3, 1973,c.426,s.74.)

It should be noted that where practical, data, text, charts, etc. contained in the two earlier studies were reproduced for inclusion in this document. A feature of this "Annexation Report" which was notably absent in previous documentation is the metes and bounds descriptions of the external boundaries of annexation areas. This information is necessary if an annexation ordinance is to be prepared.

II. INTRODUCTION

Municipal boundaries are normally extended as a result of the growth of relatively dense urban development beyond a municipality's corporate limits. The municipal form of government enables an area which is urban in nature to deliver services to its inhabitants, to raise revenue to support these services, and to act as a medium for encouraging orderly development. Ideally, annexation will benefit the municipality as well as the area being absorbed.

The financing of services is a major consideration when studying the possibility of annexation. Municipal services are financed primarily from revenue generated by a local tax base, the major product of which is the property tax (in North Carolina). The fixing of corporate limits is, therefore, a major determinant of the ability of a municipality to adequately serve its populace...this is because the quality and quantity of property contained within its limits will directly affect the quality and quantity of municipal services rendered.

In the case of smaller municipalities, urban development is prone to cluster around the periphery of an existing incorporated place. By locating in this manner, the growth areas can be served by water and sewer extensions, be given fire protection, can utilize the municipality's streets, recreation areas, etc., without being legally obligated to contribute to the direct financing of these services. Although alternative methods of financing services beyond corporate boundaries are available to municipal governments (such as user fees, property assessments, surcharges, etc.) only the incorporated sector is a reliable source of financial support. The municipality is, then, essentially limited in its power to raise revenue in proportion to demand for its services. Additionally, those persons residing in unincorporated urban areas often find themselves handicapped by their inability to govern

their area and to provide necessary public services on behalf of the general health, safety and welfare of their community.

Annexation of territory is one method utilized by municipalities to evenly distribute the tax burden, to service unserved areas, and to encourage orderly development. The residents of annexed areas are then entitled to all services enjoyed by the majority of municipal residents and are enfranchised to vote for the officials who control those services; indirect benefits such as increased property values, lower insurance rates, etc., may also result to the individual as a by-product of annexation.

An assumption inherent in studying the feasibility of annexation is that areas which have become urban in nature should by reason be annexed (or incorporated, depending upon their proximity to an existing incorporated place). A basic standard to be followed is that the annexation should be of benefit both to the municipality and to the annexed area. Annexations which are steered by sound reasoning and which are based upon factual findings should be compatible with these guidelines with little strain.

"G.S. 160A-33. Declaration of policy. It is hereby declared as a matter of State policy:

- (1) That sound urban development is essential to the continued economic development of North Carolina;
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and government purposes or in areas undergoing such development.
- (3) That municipal boundaries should be extended, in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare, and

- (4) That new urban development in and around municipalities having a population of less than 5,000 persons tends to be concentrated close to the municipal boundary rather than being scattered and dispersed as in the vicinity of larger municipalities, so that the legislative standards governing annexation by smaller municipalities can be simpler than those for large municipalities and still attain the objectives set forth in this section;
- (5) That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation."

III. CHANNELS THROUGH WHICH ANNEXATION CAN OCCUR

There are three basic methods available to municipalities for extending their corporate limits:

1. Action by the General Assembly. The General Assembly may at any time enlarge the boundaries of a municipality by special act. This method is available to all municipalities. When this method is used, a resolution is passed by the local governing body requesting its representative(s) in the General Assembly to introduce the appropriate legislation. If approved by the General Assembly, certain conditions may be imposed on the town before the legislation can become effective.
2. Annexation by Petition. "The governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located within such area." (G.S. 160A-31). This procedure involves a public hearing and a finding that the petition and the area to be annexed meet statutory requirements. The petition procedure is best suited for annexation of small areas, new subdivisions and tracts of land with a small number of property owners.
3. Annexation by Local Ordinance. A municipality may annex any area, without need for public referendum, if that area meets the following conditions. (G.S. 160A-36).
 - a. The area must be contiguous to the municipal boundary.
 - b. At least one-eighth (12.5%) of the total boundary of the area must coincide with the municipal boundary.
 - c. No part of the area may be within another municipality.
 - d. The area must be developed for urban purposes. For municipalities under 5,000 population, an area developed for urban purposes is defined as any area which is so developed that at least sixty percent of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes. The area must also be subdivided into lots and tracts such that at least sixty percent of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.
 - e. New municipal boundaries shall follow natural topographic features, wherever practical, and if a street is used as a boundary it should include developed land on both sides of the street.

Annexation by referendum (G.S. 160A 25-28) is also a possibility, although seldom used, as is annexation of noncontiguous "satellite" areas as provided in Part 4 of Chapter 160A.

Of the three methods listed above, annexation by local ordinance is the only method which can be undertaken by the municipality without the collaboration and cooperation of external parties. Because it is based upon the principle that urban growth areas deriving their strength from an adjacent municipality should rationally be a part of that municipality, this method requires that extensive research be conducted in order to prove that a desired annexation area is indeed "urban". This report shall be concerned primarily with analyzing areas to determine if they can qualify for annexation by local ordinance as well as developing preliminary plans for extending municipal services to annexable areas in accordance with G.S. 160A-35(3).

Note: Annexation "By Local Ordinance" and Annexation of "Areas Meeting Statutory Requirements" Imply the Same Method.

IV. SPECIAL CONSIDERATIONS

The text in this Chapter is reprinted from the "Potential Study". Some issues related specifically to Highland's local situation are reviewed; it is hoped that this commentary will expose some possible problems and will aid in guiding stable annexations.

The Geometry of the Town

A point of much debate has surrounded the geometric configuration which the Town will assume if the study areas are annexed. It is interesting to note that geometry has historically played a significant role in determining Highlands' regional location as well as its municipal boundaries. The Town is said to have been located at a point where lines drawn between New York - New Orleans and Chicago - Savannah intersected. The Town Limits were originally listed in Chapter 43 of the General Statutes of the State of North Carolina (A.D. 1879) as "...Beginning at the post office known as Baxter's Store, running each way from there so as to make one mile square."

This definition of the corporate limits was apparently too vague. Since 1879, the corporate limits have been redefined no less than four times. Yet, the Town today remains in the shape of a square measuring one and one-half miles (7,920 feet) on each side. The following excerpts describe the Town Limits with the passage of time:

...Beginning at a stake three-fourths of a mile north from the crossing of Main and Fourth Streets, and running thence east three-fourths of a mile, thence south one and one-half miles, thence west one and one-half miles, thence north one and one-half miles, thence east three-fourths of a mile to the beginning. (Chapter 56; A.D. 1883)

That the corporate limits of said Town shall be one and one-half miles square, to be determined by closing in lines running three-fourths of a mile north, south, east, and west from the crossing of Main and Fourth Streets... (Chapter 208; A.D. 1891)

Chapter 134 of the General Statutes, ratified in 1913, amended the Charter of the Town of Highlands to include the 1891 defini-

tion and stated that "all laws and clauses of laws in conflict with this act are hereby repealed."

Chapter 28, ratified in 1921 redefined the corporate limits, reverting to the 1883 definition.

Annexation Guidelines

By virtue of the Town having a square configuration, the corporate limits have been relatively easy to describe on paper. It would appear, however, that there has been a sizeable amount of confusion in deciding exactly where that square was located on the ground.

A section of the 1959 legislation (G.S. 160A-36(d)) which authorizes annexation by local ordinance states:

In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality developed land on both sides of the street.

It would seem that the Appalachian Mountain topography alone would preclude any sort of annexation of linear boundaries. Although the study areas do not in all cases follow existing natural features, an attempt has been made to follow either natural features or property lines where practical. By annexing in a linear fashion, there is a higher possibility of splitting tracts of property, with a portion of the tract lying within the municipality and a portion outside. A situation of this type is, of course, a fertile breeding ground for administrative and legal problems.

When a municipality undertakes an annexation of territory, it is wise to check the areas under consideration in relation to the following guidelines. This listing is by no means complete.

- Areas which have become urban in nature, that is, relatively densely populated, should be considered as the primary targets for annexation. The greatest amount of real and personal property in the least amount of surface space will generally aid the Town in providing the most efficient services.

- Physical obstacles, such as steep slopes, lakes, rivers, etc. should be carefully examined before annexation. Areas of this type could bring about greatly increased costs of providing municipal services, especially water and sewer lines.
- Large vacant spaces should be avoided when annexing territory. If a large vacant area is annexed, then utilities must be extended to development occurring in that area regardless of the costs or obstacles involved. A resident living a mile from the nearest development could demand, and would be legally entitled to, water service if it is being provided to the remainder of the municipality.
- Economies of scale tend to favor annexation in most cases. Small areas find much of their revenue channeled into overhead (e.g. office space, vehicles, furniture and paper) rather than actual service. An expanded tax base can often be used to produce revenue which will finance upgraded service as opposed to additional overhead.
- An area lying outside of the municipality which must be traversed in order to service areas within the municipality (e.g. an area fronting on a road which loops outside of the limits) is a likely candidate for annexation, provided that it is consistent with the other annexation standards.
- An area lying beyond the corporate limits which relies upon the municipality for services is a good target for annexation. Those using municipal services should also be responsible for their financing.

V. ANNEXATION STUDY AREAS

The annexation areas presented in this report have evolved as products of the "Feasibility Study," "Potential Study", and recommendations and alterations made since these studies were completed. Study Area A (Northwest) represents a combination of several areas which were previously separate: 1) the Bear Pen Mountain, Country Club and Cullasaja Heights areas, which were proposed in the "Feasibility Study"; 2) the Mt. Lori area, which emerged in the "Potential Study" and 3) the Webbmont - River Lake area and an unnamed area north of Highlands Cemetery, both of which were added subsequent to the preliminary study process. The unification of these diverse segments into one large study area should aid in eliminating a great deal of confusion and complexity. Also, fragmentary areas which were unable to qualify for annexation when judged on an individual basis now meet the statutory requirements as a result of integration with areas which "over-qualify."

Study Area B (Indian Hills) was established during the course of the "Feasibility Study" and currently remains separate. Both study areas are outlined in this section, described in detail, then measured for compliance with the statutory standards required in G.S. 160A-36.

Estimates of conditions required in G.S. 160A-36 were based upon:

- a) data from the Macon County Tax Office and Register of Deeds b) a "windshield survey" of land use current through March, 1977, and c) 1976 aerial photography. Tax maps were not available. In some cases, lot lines were neither recorded nor easily recognizable and estimates using the best knowledge available had to be relied upon. In all areas analyzed, however, a considerable cushion has been provided in order to absorb any significant errors.

Mention should be made that the terms "lot" and "tract" are not defined in the General Statutes as to whether they refer to use or ownership. The courts have been quite liberal in allowing any of several definitions to be used. According to one decision:

There are several methods which can be used in determining what is a lot in making an appraisal of the area to be annexed. One is to count each numbered lot separately. Another is to consider a landlocked lot as part of the lot in front of it and group the two lots--the landlocked lot and the one providing it with access to a street--as being a single lot. A third method would be to consider a group of lots in single ownership and used for a single purpose as being a tract within the meaning of the statute, and count tracts rather than lots. Any one of these methods would be "calculated to provide reasonably accurate results" as required by G.S. 160-453-10. Adams-Millis Corp. v. Town of Kernersville, 6 N.C. App. 78, 169 S.E. 2d 496 (1969).

METES AND BOUNDS DESCRIPTIONS

FIRST TRACT: NORTHWEST STUDY AREA

BEGINNING on the S.W. corner of the present incorporate town limits of the Town of Highlands, North Carolina, runs thence a westerly direction approximately 1750 feet more or less to an iron pipe, the easternmost corner of the land described in Deed Book A-9 at Page 121; thence with the boundary lines of the said tract the following six (6) courses and distances:

S $33^{\circ} 52'$ W 194.7 feet to an iron pipe;

S $36^{\circ} 20'$ W 453.8 feet to a concrete monument designated No. 558, the same being U. S. National Forest Land Corner MI-93;

N 88° W 599.8 feet to a 16" red oak U. S. National Forest Land Corner MI-94, 86a-4 and 6-470;

N $87^{\circ} 30'$ W 786 feet to an iron pipe, U. S. National Forest Service Corner MI-95 and 5-470;

N $12^{\circ} 03'$ E 42.2 feet to an iron pipe;

N $43^{\circ} 57'$ W 339 feet to an iron pipe;

thence N $43^{\circ} 30'$ W 33 feet to a 12" black oak, the 5th described Corner in Deed Book I-7 at Page 316; thence, with the boundary lines described in Deed Book I-7 at Page 316, N $50^{\circ} 30'$ W 300 feet to an iron pipe, the southeast corner described in Deed Book Z-7 at Page 228; thence, with 2 lines of the boundary lines described in Deed Book Z-7, page 228, N 19° 30' W 169.8 feet to an iron pipe; thence N $87^{\circ} 20'$ W 100 feet to an iron pipe, the same being also the southeast corner of the land described in Deed Book B-8 at Page 82; thence N $02^{\circ} 40'$ E 60 feet to an iron pipe, the northeast corner described in Deed Book B-8 at Page 82 and the southeast corner described in Deed Book V-10 at Page 167; thence with the east lines of the land described in Deed Book V-10 at Page 167 the next three (3) calls:

N $05^{\circ} 34'$ E 232 feet to a fence corner;

N 46° E 48' to a locust post;

N $50^{\circ} 17'$ E 934 feet to a 20" white oak, the northeast corner of the land described in Deed Book V-10 at Page 167 and the extreme south corner of the land described in Deed Book A-10 at Page 179; thence, with 5 lines of the land described in Deed Book A-10 at Page 179, N $29^{\circ} 30'$ W 593 feet to a planted stone; thence S 59° W 589 feet to a mound of stones; thence N 21° W 429 feet to a planted stone, the southeast corner

of the land described in Deed Book Q-6 at Page 292; thence N 45° 15' E 100 feet to a stake; thence N 07° W 462 feet to a planted stone, the northwest corner of the land described in Deed Book A-10 at Page 179; thence, with 4 lines of the land described in Deed Book Q-9 at Page 19, N 05° 59' 30" W 231.69 feet to an iron pipe; thence N 63° 22' E 97.53 feet to an iron pipe; thence N 09° 02' 15" E 120.05 feet to an iron pipe; thence N 08° 35' 30" E 441.69 feet to an iron pipe, which is also the southeast corner of the land described in Deed Book M-5 at Page 366; thence with 2 lines of the land described in Deed Book M-5 at Page 366, N 85° W 250 feet to an iron pipe; thence S 69° 10' W, passing the southwest corner of the land described in Deed Book M-5 at Page 366 at 365 feet, whole distance 385 feet, more or less, to the center line of N. C. State Highway No. 106; thence, leaving the centerline of the said highway and in a northerly direction 230 feet to a point that is perpendicular to the said Highway No. 106; thence in an easterly direction parallel with and 230 feet north of the centerline of the said highway approximately 1,450 feet, more or less, to a point lying 215 feet west of and perpendicular to the centerline of Arnold Road (also known as Roberts Road); thence in a northerly direction parallel with and 215 feet west of the centerline of Arnold Road approximately 850 feet, more or less, to the centerline of a small branch; thence with the centerline of the said branch and in an easterly direction approximately 230 feet, more or less, to the west shore line of Lake Sequoyah (the shore line of Lake Sequoyah being defined as a contour line 1 foot above the top of the spillway of the dam which impounds Lake Sequoyah); thence with the meanders of the west shoreline of Lake Sequoyah in a northerly direction to where the said shore line intersects the south line of the proposed land exchange between the Town of Highlands, N. C., and the Highlands District of the Nantahala National Forest, the said proposed land exchange being designated as FPC Project No. 693; thence, with the south line of the said proposed land exchange N 88° 01' W to the southwest corner of the proposed land exchange; thence, with the west line of the proposed exchange, N 05° 15' W 4.40 chains (290.40 feet) to the northwest corner of said proposal; thence, with a portion of the north line of said proposal, S 77° 24' E 5.60 chains (369.60 feet) to U. S. National Forest Service Corner 1 of Tract No. 534a; thence N 00° 31' E 7.42 chains (489.72 feet) to corner 2 of Tract No. 534a; thence N 69° 53' E 10.87 chains (717.42 feet) to corner 3 of Tract No. 534a, this is also the northwest corner of Lot No. 11 of Laurel Heights Subdivision as shown in Plat Book 1, page 146; thence, with the said subdivision boundary, N 66° 51' E 550 feet to the extreme north corner of Lot No. 8 of the said subdivision and a point in the south line of the 1st Tract of land described in Deed Book V-6 at Page 329; thence, with 3 lines of the lands described in Deed Book V-6 at Page 329; N 61° 15' W passing the southwest corner of the 1st Tract at 165 feet whole distance 377 feet to the southwest corner of the 2nd Tract; thence N 18° 30' E 208 feet to a stake, the northwest corner of the 2nd Tract; thence S 61° 15' E 212 feet to an iron pipe the northeast corner of the 2nd Tract, the northwest corner of the 1st Tract and the southwest corner of the land described in Deed Book D-8 at Page 111; thence with one line of the land described in Deed Book D-8 at Page 111, North 03° E 70 feet to a stake, the same being also the southeast corner of Lot No. 7 of the above mentioned Laurel Heights Subdivision; thence with the boundary lines of the said Subdivision the following six (6) courses and distances:

- N 77° 45' W 132 feet to an iron pipe; thence
- S 84° 44' W 193 feet to an iron pipe; thence
- N 32° 24' E 844 feet to a white pine; thence
- N 55° E 110 feet to a white pine; thence
- S 01° 45' W 495 feet to a locust post; thence
- S 88° 41' E 948 feet to a point in the center line of Big Creek,

the northeast corner of Lot No. 12 of Laurel Heights Subdivision and the eastern terminus of the agreement described in Deed Book X-6 at Page 460; thence, with the center line of Big Creek, S 10° E 57.3 feet to a point the southwest corner of the land described in Deed Book J-7 at Page 326 and the northwest corner of the land described in Deed Book T-9 at Page 32; thence with the boundary lines of the land described in Deed Book T-9 at Page 32 the following 37 courses and distances: down and with the center line of Big Creek S 09° W 168 feet to a point at the intersection thereof with Moonshine Creek; thence leaving Big Creek up and with the center line of Moonshine Creek, S 21° 36' E 44 feet, S 37° 40' E 32 feet, S 22° 46' E 39 feet, S 11° 56' E 99 feet, S 09° W 82 feet, S 04° 35' E 112 feet, S 18° 28' E 57 feet, S 06° 48' W 35 feet, S 60° E 74 feet, S 82° 50' E 70 feet, S 72° 04' E 96 feet, N 79° 28' E 28 feet, S 43° E 33 feet, S 64° 15' E 44.2 feet, S 83° 31' E 126 feet, N 83° 14' E 31 feet, N 69° 54' E 69 feet, S 70° 10' E 35 feet, N 84° 48' E 22 feet, N 57° 45' E 59.8 feet, N 60° 46' E 15.2 feet, N 88° 10' E 78 feet, N 56° 08' E 28 feet, N 20° 48' E 34 feet, N 34° 13' E 78 feet, N 08° 48' E 59 feet, and N 29° E 50 feet; thence leaving Moonshine Creek, S 09° 10' E 335 feet to an iron pipe; thence S 46° 25' W 154.2 feet to an iron pipe on the north margin of Hickory Hills Road (N. C. State Road No. 1548); thence with the north margin of said road S 60° 29' E 31.5 feet to an iron pipe; thence leaving the said road N 46° 25' E 90 feet to an iron pipe; thence N 82° E 113 feet to an iron pipe; thence S 08° E 200 feet to an iron pipe; thence N 82° E 324.4 feet to an iron pipe; thence S 00° 48' W 193 feet to an iron pipe, the Beginning Corner of the land described in Deed Book T-9 at Page 32; thence, continuing with the boundary of the land described in Deed Book T-9 at Page 32, S 85° E 1055.2 feet to an iron pipe the 2nd described corner in Deed Book T-9, page 32 and the southwest corner of the land described in Deed Book S-9 at Page 87; thence with the south line of the land described in Deed Book S-9, page 87, S 85° E 200 feet to an iron pipe the southeast corner of the land in Deed Book S-9 at Page 87 and the southwest corner of the land described in Deed Book B-6 at Page 628; thence S 85° E 374 feet to a 10" white oak the southeast and Beginning Corner of the 2nd Tract described in Deed Book T-9 at Page 32, the same being also located in the west line of Lot No. 27 of the subdivision of the W. T. Potts Estate as shown on a map thereof and recorded in Plat Book No. 1, at page 91; thence, with the west line of the said Lot No. 27 S 16° 30' E 58 feet, more or less, to the center line of N. C. State Road 1546, the southwest corner of the said Lot No. 27 and the northwest corner of Lot No. 28 of the said Subdivision of the W. T. Potts Estate; thence, leaving the centerline of the said State Road No. 1546 in a northeasterly direction 230 feet to a point that is perpendicular to the said State Road No. 1546; thence in a southeasterly direction parallel with and 230 feet north of the centerline of State Road No. 1546 to a point in the centerline of N. C. State Road No. 1545; thence, leaving the centerline of State Road No. 1545, in a straight line and in a southeasterly direction approximately 75 feet, more or less, to the mouth of a small branch entering the north shore line of Mirror Lake (the shore line of Mirror Lake being defined as a contour line 1 foot above the top of the spillway of the dam which impounds Mirror Lake); thence with the meander of the said contour line following the north shore line of Mirror Lake in an easterly direction 2500 feet, more or less, to the mouth of

Creek; thence in a straight line crossing Mirror Lake in a southerly direction approximately 170 feet, more or less, to a point, the said point being situated 210 feet north of and perpendicular to the northeast corner of Lot No. 37 of the Laurel Terrace Subdivision as shown on a plat thereof and recorded in Plat Book 1 at Page 134 (the northeast corner of Lot No. 37 being a point in the centerline of a 20' access road); thence in an easterly direction

parallel with and 210 feet north of the centerline of the said access road approximately 2,200 feet, more or less, to a point in the centerline of U. S. Highway No. 64; thence, leaving the said highway, in a straight line and in a southerly direction approximately 450 feet, more or less, to the northeast corner of the land described in Deed Book B-7 at Page 118, the said corner is the northeast corner of Lot No. 28 and the northwest corner of Lot No. 27 of Greenwood Forest Development (there is no recorded map of this development); thence, with 3 lines of the Greenwood Forest Development, due East 205 feet the northeast corner of Lot No. 27 as described in the deed recorded in Deed Book K-6 at Page 88 and the northwest corner of Lot No. 26 as described in the deed recorded in Deed Book I-6 at Page 472; thence S 75° E 208 feet to the northeast corner of Lot No. 26 and the northwest corner of Lot No. 25 as described in the deed recorded in Deed Book H-6 at Page 182; thence S 59° E 249 feet to the northeast corner of Lot No. 25; thence in a straight line and in an easterly direction approximately 575 feet, more or less, to the southwest corner of the land described in the deed recorded in Deed Book J-11 at Page 92; thence with the boundary lines of the land described in Deed Book J-11 at Page 92 as follows: S 79° E 270 feet, more or less, to the north margin of Gap Road as shown on a plat of Bearpen Mountain Home Development Co., Subdivision No. 1, and recorded in Plat Book No. 1, page 33; thence with the north margin of said road in an easterly direction approximately 200 feet to the southwest corner of Lot No. 95 of the aforesaid Bearpen Mountain Home Development Co., Subdivision No. 1; thence with two lines of Lot No. 95 N 03° E 200 feet to the northwest corner of said lot; thence S 39° 15' E 35 feet to a point in the north line of the said Lot No. 95; thence leaving the boundary line of the said Lot No. 95, in a northeasterly direction parallel with and 230 feet northwest of the centerline of Summit Drive approximately 550 feet, more or less, to a point; thence, continuing in a northeasterly direction, parallel with and 230 feet northwest of the centerline of Cook Road to the northwest corner of the land described in Deed Book O-8 at Page 61 and being also a corner of the land described in Deed Book J-11 at Page 92; thence with the land described in Deed Book J-11 at Page 92 the following three (3) courses and distances:

N 17° 35' E 206.3 feet to an iron pipe; thence

N 10° 04' E 106 feet to an iron pipe; thence, continuing,

N 10° 04' E 210 feet, more or less, to the northeast corner of the land described in Deed Book J-11 at Page 92 and also being a point in the outside boundary of the aforesaid Bearpen Mountain Home Development Co. Subdivision No. 1 lands; thence, with the said boundary N 85° 19' E 150 feet, more or less, to the northwest corner of the land described in Deed Book O-9 at Page 17; thence with the west boundary of the land described in Deed Book O-9 at Page 17 the following 15 courses and distances: S 36° 58' E 113 feet to an iron pipe; S 02° 15' W 103 feet to an iron pipe; thence S 17° 30' E 366.5 feet to an iron pipe; thence S 03° 32' E 174 feet to an iron pipe; thence S 47° 51' W 131 feet to an iron pipe; thence S 47° 09' E 427.5 feet to an iron pipe; thence S 01° 04' E 602 feet to an iron pipe; thence S 02° W 215.5 feet to an iron pipe; thence S 23° 54' W 228.4 feet to an iron pipe; thence S 11° 52' E 177 feet to an iron pipe; thence S 34° 47' W 32 feet to an iron pipe; thence S 02° 52' W 44 feet to an iron pipe; thence S 52° 50' E 51 feet to an iron pipe; thence S 10° 28' E 75 feet to an iron pipe; thence N 86° 38' E 15 feet to an iron pipe the same being also corner No. 17 of the aforementioned Bearpen Mountain Home Development Co. Subdivision No. 1; thence, with the boundary of the same, S 01° 28' E approximately 83 feet, more or less, to a point lying perpendicular to and 230 feet north

of the centerline of Upper Lake Road, the same being also N. C. State Road #1605; thence in a southeasterly and southerly direction parallel with and 230 feet east of the centerline of the said road approximately 700 feet, more or less, to a point in the centerline of N. C. State Road No. 1604; thence continuing in a southerly direction parallel with and 230 feet east of the centerline of N. C. State Road No. 1604 approximately 1,600 feet, more or less, to a point in the centerline of Horse Cove Road which is also N. C. State Road No. 1603; thence, leaving Horse Cove Road and continuing in a southerly direction 230 feet to a point that is perpendicular to Horse Cove Road; thence, in a westerly direction parallel with and 230 feet south of the centerline of Horse Cove Road approximately 700 feet, more or less, to a point at the intersection thereof with the east boundary of the present incorporate town limits of the Town of Highlands, North Carolina; thence with the east boundary of the present Town limits due North approximately 4,000 feet, more or less, to the northeast corner of the present Town limits; thence with the present incorporate Town limits the following two (2) courses and distances:

Due West 1.5 miles to the northwest corner; thence
Due South 1.5 miles to the Beginning.

SECOND TRACT: INDIAN HILLS STUDY AREA

BEGINNING at a point in the west boundary line of Indian Hills Development, a map of which is recorded in Plat Book No. 1 at Page 71, situated in south boundary of the present incorporate town limits of the Town of Highlands, N. C., and being further located approximately 950 feet, more or less, due East of the southwest corner of the said present incorporate Town Limits; runs thence, with the west boundary line of the said Indian Hills Development, S 01° W approximately 780 feet to the southwest corner of the Indian Hills Development and a point in the north boundary line of the lands described in Deed Book L-8 at Page 218; thence continuing, S 01° W approximately 200 feet, more or less, to the center line of the existing access road described in Deed Book L-8 at Page 218 and as shown on a plat accompanying and recorded with the deed recorded in Deed Book L-8, page 218; thence with the center line of the said access road and in an easterly direction to the point of intersection with the center line of N. C. State Highway No. 28; thence, leaving the center line of the said Highway No. 28, in an easterly direction 250 feet to a point that is perpendicular to the said Highway No. 28; thence in a northerly direction parallel with and 250 feet East of the center line of the said Highway No. 28 1,000 feet, more or less, to a point at the intersection thereof with the south boundary of the present incorporate Town Limits of the Town of Highlands, N. C.; thence with the south boundary of the said present Town Limits due West approximately 1,700 feet, more or less, to the Beginning.

All Deed Books and Plat Books above referred to are located in the Office of the Register of Deeds for Macon County, North Carolina.

Study Area A - Northwest

This annexation area represents the vast majority of the total territory proposed for annexation. The total land area encompassed by Study Area A is 1242 acres, and consists primarily of residential development and the golf course of the Highlands Country Club.

The total area to be annexed meets the statutory standards outlined in G.S. 160A-36, demonstrated as follows:

- A. The area is adjacent and contiguous, as defined by G.S. 160A-41(1) and shown on the map included with this report.
- B. The aggregate external boundary of the area to be annexed is 63,600 feet, of which 20,000 feet coincide with the Town boundary, as shown on the map included with this report. Therefore, 31.4% (12.5% is required) of said external boundary coincides with the Town boundary.
- C. No part of the area to be annexed is included within the boundary of another incorporated municipality.
- D. The area to be annexed is developed for urban purposes in that 66.1% (60% required) of the total number of lots and tracts in said area are used for (residential/commercial/industrial/institutional/governmental) purposes, and 81.7% (60% required) of the total of residential and undeveloped acreage consists of lots and tracts five acres or less in size, all of which is demonstrated as follows:

Total Lots and Tracts = 703

Total Developed for Urban Purposes = 465 (66.1%)

Residential = 455

Commercial = 5

Industrial = 0

Institutional = 4

Governmental = 1

Total Residential and Undeveloped Acreage = 933

Total in Lots and Tracts Five Acres or Less = 763 (81.7%)

Study Area B - Indian Hills

Study Area B is much smaller than Area A and remains as a separate annexation area. The total land area of Area B is 30 acres, consisting primarily of residential development.

The total area to be annexed meets the statutory standards outlined in G.S. 160A-36, demonstrated as follows:

- A. The area is adjacent and contiguous, as defined by G.S. 160A-41(1) and shown on the map included with this report.
- B. The aggregate external boundary of the area to be annexed is 5,200 feet, of which 1,600 feet coincide with the Town boundary, as shown on the map included with this report. Therefore, 30.8% (12.5% is required) of said external boundary coincides with the Town boundary.
- C. No part of the area to be annexed is included within the boundary of another incorporated municipality.
- D. The area to be annexed is developed for urban purposes in that 93.7% (60% required) of the total number of lots and tracts in said area are used for (residential/commercial/industrial/institutional/governmental) purposes, and 100% (60% required) of the total of residential and undeveloped acreage consists of lots and tracts five acres or less in size, all of which is demonstrated as follows:

Total Lots and Tracts = 16

Total Developed for Urban Purposes = 15 (93.7%)

Residential = 13

Commercial = 2

Industrial = 0

Institutional = 0

Governmental = 0

Total Residential and Undeveloped Acreage = 28

Total in Lots and Tracts Five Acres or Less = 28 (100%)

VI. COST-REVENUE ANALYSIS (AND SERVICES PLAN)

The cost-revenue analysis outlined in this Chapter has been prepared through the use of several sources. The Town's "Annual Budget Estimate" for FY 1976-77 provided a great deal of data as did conferences with local officials who were familiar with the Town's finances. The Macon County Tax Office was called upon for information related to the property tax, sales tax, intangible tax, etc.; advice and comments from the North Carolina Department of Transportation and Department of Human Resources were also solicited. Methods employed in making the cost-revenue estimates are outlined in the section entitled "Cost Revenue Calculation Methodology" found in the appendix.

It should be mentioned that a separate section listing specific services to be extended to the annexation areas is not provided, rather, the "costs" segment embodies this information. The provision of new municipal services will undoubtedly vary from area to area, depending upon the extent to which an area is currently using municipal services. The fire department, for example, will necessitate no expansion due to the fact that all of the territory proposed for annexation is presently covered by its services. Conversely, the municipal garbage collection network will require a great deal of upgrading since the annexation areas do not utilize this service at the present time.

Upon the effective date of annexation, each resident of the Town will be provided with the following services at a minimum:

- Fire Protection
- Police Protection
- Water Service
- Garbage Collection Service
- Street Maintenance
- Electrical Distribution Service
- Participation in Recreation Programs
- Participation in Municipal Elections

REVENUES

Property Tax

The total assessed valuation of the entire area proposed for annexation is estimated at slightly over \$29 million. The aggregate ad valorem property tax (real and personal) anticipated from the increased tax base, assuming that the current tax rate of 30 cents per \$100 of assessed value holds steady at 95% collection rate would total roughly \$82,600 annually.

<u>Study Area</u>	<u>Total Assessed Value</u>	<u>Property Tax Revenue</u>
"A" Northwest	\$28,758,910	\$81,962
"B" Indian Hills	251,862	717
Total	\$29,010,772	\$82,679

Sales Tax, Intangibles Tax, Franchise Tax, Privilege License Fees

For purposes of convenience revenue from the 1% sales tax, intangibles tax, franchise tax, and privilege license fees have been grouped under a single heading. The revenues which the Town receive from two of these sources is largely a function of the municipality's property tax levy (sales and intangibles) while the remaining two (franchise and privilege license) are related to business activity. The combined increase from these sources should generate about \$37,760 annually.

Powell Bill Allocation

Powell Bill revenues are collected by the State and returned to municipalities on the basis of permanent population and municipally maintained street mileage. Increased revenues from the Powell Bill should total about \$10,610 per year.

Garbage Collection Revenue

The current charge of \$3.00 per home per month should produce about \$17,140 in additional revenues as a result of annexation.

Loss in Water Revenue

A loss in water revenue, due to the rate structure, will occur due to annexation. Customers outside of the Town limits are currently charged a rate double the inside rate (base charge for first 2,500 gallons is \$3.50 inside as opposed to \$7.00 outside). A loss of approximately \$17,280 per year is expected.

COSTS

Garbage Collection

In addition to the increased costs of maintenance, supplies, etc., required to service the study areas, it would be necessary to purchase a new packer truck and to hire a two-man crew if Study Area A, the large Northwest area, is annexed. The capital outlay would bring the first years total cost to about \$39,000 and the average annual cost to about \$20,570.

Police Protection

Highlands has recently upgraded its police department to include six law enforcement personnel and two cars. This level of service should be sufficient to cover any or all of the annexation areas. About \$1,500 will be required, however, to cover the costs of protecting an expanded geographical area (for example, fuel, tires, repairs for vehicles, etc.).

Street Maintenance

As a result of the potential annexation of all five study areas, the Town would assume responsibility for the maintenance of 11.32 miles of streets which are now being maintained by the North Carolina Department of Transportation as secondary roads. Paved roads in the study areas totaled 5.87 miles and unpaved roads 5.45 miles according to the January 1, 1974, Macon County DOT Map. The actual cost to the Town of maintaining the additional mileage will be dependent upon agreements reached between DOT and the Town (regarding which party will become responsible for each street or road). It is possible, for example, for the Town to request DOT to continue to maintain the roads/streets, or for the Town to contract with DOT for their upkeep. If the Town chooses not to accept the mileage, however, it would not be eligible for additional Powell Bill revenue (which is allocated partially on the basis of municipally-maintained street mileage.)

The average cost of maintaining streets in Highlands was initially estimated at \$2,111 per mile. DOT estimates that each mile of paved street or road which it maintains costs about \$800 per year (including periodic repaving) and unpaved roads about \$750 per mile annually. The DOT figure is, of course, much lower than the cost which a small town could expect, due primarily to the economies of scale, therefore, the average cost per mile should drop to about \$1,900 per mile; this would bring the total for 11.32 miles to about \$21,508 annually.

Large scale surfacing/resurfacing of roads or widening of narrow roads which do not qualify for Powell Bill funds could raise this figure substantially. It is felt that Powell Bill funds should be adequate to cover a large portion of the increased costs of street maintenance, and if the Town so chooses, it could assess property owners for major improvements such as paving, widening, etc.

Water Service. All areas under consideration for annexation are currently provided with water service. The Country Club area is served by a franchised utility system; if the Town were to annex this area, an agreement should be made between the owner of the Country Club water system and the Town concerning the manner in which water services would be provided in this area. The Country Club system currently derives its water supply from two wells; these wells have not been given full approval by the North Carolina Department of Human Resources as of this date due to a technical regulation (i.e. the wells are located too near an existing impoundment). Also, the Country Club system does not have the authority to extend its services to additional customers. If the two systems were joined together, the Country Club wells would have to be abandoned in order to prevent mixing of water with the Town's system.*

*Information on Country Club system confirmed in a telephone interview with Jim Bloom, N.C. Department of Human Resources, Division of Health Services, Black Mountain, N.C. (9/30/76)

It should be emphasized that in the event that an agreement is not reached, the Town would not be required to provide water service to the Country Club area since the Club system operates as a franchised public utility. In fact, the Town should not attempt to serve customers in the Club area without the express written consent of the Club system's owner, for to do so would be tantamount to condemnation action and compensation to the "condemned" system could be required. (N. C. GS 40-30).

The Town of Highlands is presently planning improvements to its water system which will be undertaken regardless of annexation. Only minor extensions, if any, would be required to service the annexation areas.

Sewer. Highlands' municipal sewer system is confined to a small area near the central business district. Very few residents within the present town limits are being provided with sewer service, and it is not the Town's policy to extend lines to residents beyond the presently sewerized area. Because of this limited service area, it will not be necessary to extend sewer service into the various annexation areas. Justification for this course is found in GS 160A-35 (3b) which states that extension of water and/or sewer lines be based upon "policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions."

Other

Annexation should have no effect or only negligible effects on the costs of fire protection, electrical distribution, recreation programs, and municipal administration.

COST-REVENUE SUMMARY*

<u>Costs</u>	<u>Revenues</u>
Garbage \$20,570	Property Tax \$ 82,679
Police 1,500**	Sales, Intangibles, 37,760
Street 21,508	Franchise, Privilege
Total \$43,578	License
	Powell Bill 10,610
	Garbage 17,140
	Water (loss) (17,280)
	Total \$130,909

(*Figures are annual averages over a five-year period.)

From the cost-revenue study, it is expected that the Town would increase revenues by a little more than \$130,000 while costs would rise by about \$44,000. These figures reflect costs and revenues assuming that all of the study areas are annexed at the same time. Unforeseen costs, both capital and operating, could be financed from the surplus revenue. It should be emphasized that the first year costs (if Study Area A, the large Northwest area were annexed) will be somewhat higher than those of remaining years due to the capital expense of purchasing garbage collection equipment.

**It is possible that costs of providing police protection will not increase at all since the Department operates at peak production regardless of the total area it covers....the \$1,500 shall, however, be retained as a safety factor.

COSTS AND REVENUES BY STUDY AREAS

	Study Area A (Northwest)	Study Area B (Indian Hills)
<u>Costs</u>		
Police	\$ 1,457	\$ 43
Garbage	19,902	668
Street	20,881	627
Total	42,240	1,338
<u>Revenues</u>		
Property Tax	\$ 81,962	\$ 717
Sales, Intangibles, Franchise, Privilege License	37,438	322
Powell Bill	10,306	304
Garbage	16,556	584
Water (loss)	-16,560	-720
Total	\$129,702	\$1,207
<u>Net Revenue</u>	\$ 87,462	\$ -131

APPENDICES

A. Cost-Revenue Calculation Methodology

The following methods were employed in making cost-revenue estimates. A total cost of revenue was estimated, then these estimates were allocated to each study area. (Rounding of allocation factors as well as modifications may result in slight discrepancies between the figures as they would be calculated and those found in the cost-revenue table and the body of the report.) Tables A through D are located at the end of this section.

Costs

Police - Estimate (\$1,500): Loosely based upon existing costs of operating police vehicles times increase factor in total assessed valuation.

Allocation: Based primarily upon the ratio (%) of assessed valuation in each study area to the assessed valuation of all annexation study areas combined. (Table B)

Garbage - Estimate (\$20,570): Based upon existing cost per permanent resident ($\frac{\$32,000}{583} = \55 per person) times projected permanent population increase as a result of annexation (468 structures x 25% permanent x 3.2 persons per structure = 374).

Allocation: Based upon the ration (%) of structures in each study area to number of structures in all study areas combined. (Table A)

Street - Estimate (\$21,508): Based upon existing average cost per mile (adjusted downward due to economies of scale) of \$1,900 times 11.32 miles.

Allocation: Distributed according to state secondary road mileage listed on Macon County DOT map dated January 1, 1974. At request

of local officials, maintenance of unpaved roads was figured at twice the rate of paved roads. There are 5.87 miles of paved roads and 5.45 miles of unpaved roads, making the rates \$1,282 per paved mile and \$2,564 per unpaved mile. (Table D)

Revenues

Property Tax - Estimate (\$82,679): Based on figures listed in Feasibility Study compiled from Macon County tax records using rate of 30 cents per \$100 of assessed value at a 95% collection rate.

Allocation: Based on assessed value of each area times tax rate.

Sales, Intangibles, Franchise, Priv.

License - Estimate (\$37,760): Based on existing revenues in each of these categories times factor representing increase in total assessed value as a result of annexation. Adjusted downward to reflect lesser proportion of commercial activities in study areas relative to those within existing Town Limits.

Allocation: Based on ratio (%) of assessed value of each study area to total assessed value of all study areas combined (Table B).

Powell Bill - Estimate (\$10,610): Based on permanent population increase (374 persons) at rate of \$9.00 per person and mileage increase (11.32 miles) times \$640 per mile.

Allocation: Based on ratio of permanent population in each study area to total permanent population of all study areas combined. It was assumed that $\frac{1}{4}$ of all structures were permanent houses and that each contained about 3.2 residents. Since these factors are constant, Table A would reflect permanent population percentages (as well as structures).

Water Revenue Loss - Estimate (\$17,280): Based upon total municipal water system revenues (\$75,000) assuming that customers outside city limits pay a double rate on the average. Thus, the 550 customers inside would pay an average of about \$48 per customer per year and the 500 outside customers would pay about \$96 per customer per year. If 360 of the 500 outside customers are annexed (140 are outside of the study areas while some of those in the Country Club area are on a separate system) and are charged \$48/year instead of \$96/year, the Town would lose (360 times 48) about \$17,280 per year.

Allocation: Based on ratio of structures to be served by municipal water system in each study area to the total number of structures to be served by municipal water system in all study areas combined (Table C).

Garbage Collection - Estimate (\$17,140): Based on existing garbage collection revenues divided by 75% of the permanent population $\frac{(\$20,031)}{583 \times .75} = \45.83 times total projected permanent population increase (374). Garbage collection has until recently been provided on a voluntary basis with about 75% of all residences subscribing but a recently enacted ordinance has made this service mandatory for municipal residents and businesses.

Allocation: (See Powell Bill allocation method and Table A).

Allocation Tables

	A. Structures Number	B. Assessed Value Amount	C. Units on Water System Number	D. Road Mileage Paved Unpaved
Area A (North-west)	453	.968 \$28,758,910	.991 345	.958 5.41 5.45
Area B (Indian Hills)	15 —	.032 —	251,862 —	.009 — .042 — .46 — 0
	468	1.000	\$29,010,772	1.000 5.87 5.45

B. APPLICABILITY OF LAWS TO ANNEXED AREAS

- 1) From and after the effective date of the annexation, the annexed area, its citizens, and property are subject to all debts, laws, ordinances and regulations of the annexing city, and are entitled to the same privileges and benefits.
- 2) The tax liability of the annexed area for the fiscal year in which it is annexed is a pro-rata portion of the total taxes which would be due if the area had been annexed immediately prior to the beginning of the fiscal year. To compute the pro-rata tax liability, apply the following ratio against the total tax liability of the area:

(numerator) 365 minus the number of days between the preceding
 July 1 and the effective date of annexation
(denominator) 365

For example, if the effective date of annexation were September 1, and the total tax liability of an annexed parcel were \$300, the pro-rata taxes due upon the annexed property would be computed as follows:

$$\$300 \times \frac{365 - 60 \text{ days}}{365} = \$300 \times \frac{305}{365} = \$252$$

- 3) The due date for city taxes on the annexed area shall be the effective date of the annexation. Taxes are payable at par for 120 days. To taxes paid after 120 days but before 150 days from the due date, interest at the rate of 2% attaches. Thereafter, interest at the rate of 3/4 on one per cent shall be added per 30 days or fraction thereof until the total taxes plus interest are paid.

C. ANNEXATION OF AREAS MEETING STATUTORY REQUIREMENTS - PROCEDURES

- 1) Resolution of Intent. The governing body first adopts a resolution stating the intent of Highlands to consider the annexation(s). The resolution must describe the boundaries of the proposed area(s) and fix a date for a public hearing to be held between thirty (30) and sixty (60) days following the date of adoption of the resolution. (Resolution of Intent, pg. 41).
- 2) Notice of Public Hearing. The notice of public hearing must fix the date, hour, and place of the hearing; describe the boundaries of the area(s) to be annexed; and state that the annexation report will be available at the clerk's office at least fourteen (14) days prior to the hearing. (Notice of Public Hearing, pg. 42).
The notice must be published in a newspaper having general circulation in Highlands once a week for at least four (4) successive weeks prior to the public hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, must not be less than twenty-two (22) days including Sundays. The date of the last publication must be within seven (7) days preceding the date of the public hearing.
- 3) Approval of the Annexation Report. The governing body must approve the annexation report at least fourteen days prior to the public hearing and make the report available to the public at the clerk's office. Approval of the report should be recorded in the minutes of the governing body. (Recording Approval, pg. 43).
- 4) Public Hearing. At the public hearing, a representative of Highlands must explain the report of service plans. All residents or property owners in the area(s) and all residents of Highlands must be given an opportunity to be heard.

After considering all comments, the governing body may amend the report as long as the changes meet statutory requirements.

- 5) Adoption. At a regular or special meeting held no earlier than seven (7) days and no later than sixty (60) days following the public hearing, the governing body may adopt an ordinance extending the corporate limits. (Annexation Ordinance, pg. 44).
- 6) Notice of Adoption of Ordinance. Although not required by law, it is recommended that notice be published of the adoption of the annexation ordinance. (See Notice of Adoption, pg. 46).

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS

A RESOLUTION STATING THE INTENT OF THE (CITY) (TOWN)
OF _____, TO CONSIDER ANNEXATION OF THE AREA
DESCRIBED HEREIN AND FIXING THE DATE OF PUBLIC HEARING
ON THE QUESTION OF ANNEXATION

BE IT RESOLVED, by the (name of governing body) of the (City)(Town) of _____:

Section 1. That it is the intent of the (name of governing body) of the (City)(Town) of _____, to consider annexation of the following described territory pursuant to Part 2, Article 4A, of Chapter 160A of the General Statutes of North Carolina:

(Insert Metes and Bounds Description)

Section 2. That a public hearing on the question of annexing the above described territory will be held at (place of hearing) at _____ o'clock, _____.m., on the _____ day of _____, 19_____, at which time plans for extending services to said territory will be explained and all residents of the (City)(Town) of _____, will be given an opportunity to be heard.

Section 3. That a report of plans for extending services to the above described territory be made available for public inspection at the office of the (City)(Town) Clerk at least fourteen (14) days prior to the date of said public hearing.

Section 4. That notice of said public hearing shall be given by (publication) (posting) as required by law.

Adopted this _____ day of _____, 19 ____.

Signed _____
Mayor

ATTEST:

Clerk

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS

NOTICE OF PUBLIC HEARING ON QUESTIONS OF ANNEXATION

The public will take notice that the (name of governing body) of the (City)(Town) of _____ will hold a public hearing at (place of hearing) at ____ o'clock, ____ .m. on the ____ day of ____ , 19____ , on the question of annexation of the territory described below, pursuant to Part 2, Article 4A, Chapter 160A of the General Statutes of North Carolina, at which time the plans for extending municipal services to said territory will be explained and all persons resident or owning property in said territory and all residents of the (City)(Town) of _____, will be given an opportunity to be heard.

The report of plans for extending services to said territory will be available for public inspection at the office of the (City)(Town) Clerk at least fourteen (14) days prior to the date of said public hearing. (In addition, summaries of the full report will be available for public distribution.)¹

The area to be considered for annexation is described as follows:

(Insert Metes and Bounds Description)

Signed _____

(City)(Town) Clerk

¹To be used if appropriate.

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS

EXCERPT FOR RECORDING APPROVAL IN MINUTES

"After examination and discussion of the report of plans for extending services to the area to be considered for annexation under Resolution No. ___, adopted the _____ day of _____, 19 ___, Mr(s). _____ moved approval of the report, seconded by Mr(s). _____ and passed, _____ votes to _____."

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY)(TOWN) OF _____, UNDER THE AUTHORITY
GRANTED BY PART 2, ARTICLE 4A, CHAPTER 160A OF THE
GENERAL STATUTES OF NORTH CAROLINA

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Part (2), Article 4A, Chapter 160A of the General Statutes of North Carolina, have been met; and

WHEREAS, the (name of governing body) has taken into full consideration the statements presented at the public hearing held on the _____ day of _____, 19_____, on the question of this annexation; and

WHEREAS, the (name of governing body) has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the (City)(Town) of _____:

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City)(Town) of _____:

Section 1. That from and after the _____ day of _____, 19_____, the effective date of this annexation, the following territory shall be annexed to and become a part of the (City)(Town) of _____, and the corporate limits of the (City)(Town) of _____ shall on said _____ day of _____, 19_____, be extended to include said territory more particularly described by metes and bounds as follows:

(Insert Metes and Bounds Description)

Section 2. That the (name of governing body) does hereby specifically find and declare that the above described territory meets the requirements of G.S. 160A-36, in that:

SET FORTH IN DETAIL STATEMENTS SHOWING HOW AREA ACTUALLY MEETS THE STATUTORY STANDARDS. THIS SECTION MAY REITERATE THE CORRESPONDING STATEMENT IN THE REPORT OF PLANS FOR SERVICES.

Section 3. That it is the purpose and intent of the (City)(Town) of _____, to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the (name of governing body) on the _____ day of _____, 19_____, and filed in the office of the Clerk for public inspection.

(Continued on following page)

ALTHOUGH THE FOREGOING MAY SATISFY THE STATUTORY REQUIREMENT, IT IS RECOMMENDED THAT THE PLANS FOR SERVICES BE SET FORTH IN THIS SECTION IN DETAIL, IN SUBSTANTIALLY THE SAME LANGUAGE AS IN THE REPORT, INSOFAR AS MAY BE APPROPRIATE.

Section 4. That the (name of governing body) does hereby specifically find and declare that, on the effective date of annexation prescribed in Section 1 hereof, the (City)(Town) of _____ will have sufficient funds appropriated in the amount of \$ _____, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the (City)(Town) of _____ into the area to be annexed under this ordinance.

NOTE: If bonds must be issued, the bond authorization is equivalent to an appropriation. However, if bonds are authorized, it is recommended that such be stated in this section.

Section 5. That from and after the effective date of this annexation, the territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City)(Town) of _____, and shall be entitled to the same privileges and benefits as other parts of the (City)(Town).

Section 6. That the newly annexed territory described hereinabove shall be subject to (City)(Town) taxes according to G.S. 160A-37(f), as amended.

Section 7. That the Mayor of the (City)(Town) of _____ shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of this ordinance, to be recorded in the office of the register of deeds of _____ County, and in the office of the Secretary of State at Raleigh.

*Section 8. That notice of the adoption of this ordinance shall be published once in a newspaper having general circulation in the (City)(Town) of _____.

Adopted this _____ day of _____, 19 _____.

Signed _____
Mayor

ATTEST:

Clerk

*Optional

FOR ANNEXATION BY ORDINANCE FOR AREAS MEETING STATUTORY STANDARDS

NOTICE OF ADOPTION OF ANNEXATION ORDINANCE *

The public will take notice that the (name of governing body) of the (City)(Town) of _____ adopted the ordinance pursuant to Part(2), Article 4A, Chapter 160A of the General Statutes of North Carolina, annexing as of the _____ day of _____, 19 __, the territory described below.

Said ordinance was adopted on the _____ day of _____, 19 __, and within thirty (30) days from said date, any person owning property in said territory who shall believe that he will suffer material injury by reason of any failure of the (name of governing body) to comply with the procedure or requirements prescribed by Part (2), Article 4A, Chapter 160A of the General Statutes of North Carolina, may file a petition in the Superior Court of _____ County, seeking review of the action of the (name of governing body).

The territory annexed under said ordinance is more particularly described as follows:

(Insert Metes and Bounds Description)

Signed _____

(City)(Town) Clerk

*Optional.

(Continued on following page)

GENERAL STATUTES

Part 2. Annexation by Cities of Less than 5,000.

§ 160A-33. Declaration of policy. — It is hereby declared as a matter of State policy:

- (1) That sound urban development is essential to the continued economic development of North Carolina;
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and government purposes or in areas undergoing such development;
- (3) That municipal boundaries should be extended, in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare; and
- (4) That new urban development in and around municipalities having a population of less than 5,000 persons tends to be concentrated close to the municipal boundary rather than being scattered and dispersed as in the vicinity of larger municipalities, so that the legislative standards governing annexation by smaller municipalities can be simpler than those for large municipalities and still attain the objectives set forth in this section;
- (5) That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation. (1959, c. 1010, s. 1; 1973, c. 426, s. 74.)

§ 160A-34. Authority to annex. — The governing board of any municipality having a population of less than 5,000 persons according to the last federal decennial census may extend the corporate limits of such municipality under the procedure set forth in this Part. (1959, c. 1010, s. 2; 1973, c. 426, s. 74.)

§ 160A-35. Prerequisites to annexation; ability to serve; report and plans. — A municipality exercising authority under this Part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-37, prepare a report setting forth such plans to provide services to such area. The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
 - a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines.
 - b. Provide for extension of water mains and sewer lines into the area to be annexed so that property owners in the area to be annexed will be able to secure public water and sewer services according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions. If the municipality must, at its own expense, extend water and/or sewer mains into the area to be annexed before property owners in the area can, according to municipal policies, make such connection to such lines, then the plans must call for contracts to be let and construction to begin on such lines within one year following the effective date of annexation.

- c. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed. (1959, c. 1010, s. 3; 1973, c. 426, s. 74.)

§ 160A-36. Character of area to be annexed. — (a) A municipal governing board may extend the municipal corporate limits to include any area which meets the general standards of subsection (b), and which meets the requirements of subsection (c).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) The area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

(d) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality developed land on both sides of the street. (1959, c. 1010, s. 4; 1973, c. 426, s. 74.)

§ 160A-37. Procedure for annexation. — (a) Notice of Intent. — Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than 30 days and not more than 60 days following passage of the resolution.

(b) Notice of Public Hearing. — The notice of public hearing shall

- (1) Fix the date, hour and place of the public hearing.
- (2) Describe clearly the boundaries of the area under consideration.
- (3) State that the report required in G.S. 160A-35 will be available at the office of the municipal clerk at least 14 days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least four successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than 22 days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public hearing.

(c) Action prior to Hearing. — At least 14 days before the date of the public hearing, the governing board shall approve the report provided for in G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution.

(d) Public Hearing. — At the public hearing a representative of the municipality shall first make an explanation of the report required in G.S. 160A-35. Following such explanation, all persons resident or owning property in the territory described in the notice of public hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(e) Passage of the Annexation Ordinance. — The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or special meeting held no sooner than the seventh day following the public hearing and not later than 60 days following such public hearing, the governing board shall

have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-36. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of G.S. 160A-36(c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.
- (2) A statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by G.S. 160A-35.
- (3) A specific finding that on the effective date of annexation the municipality will have funds appropriated in sufficient amount to finance construction of any water and sewer lines found necessary in the report required by G.S. 160A-35 to extend the basic water and/or sewer system of the municipality into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds must be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.
- (4) Fix the effective date of annexation. The effective date of annexation may be fixed for any date within 12 months from the date of passage of the ordinance.

(f) Effect of Annexation Ordinance. — From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

(g) Simultaneous Annexation Proceedings. — If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this Part for the annexation of such areas.

(h) Remedies for Failure to Provide Services. — If, not earlier than one year from the effective date of annexation, and not later than 15 months from the effective date of annexation, any person owning property in the annexed territory shall believe that the municipality has not followed through on its service plans adopted under the provisions of G.S. 160A-35(3) and 160A-37(e), such person may apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be granted by the judge of superior court

- (1) If the municipality has not provided the services set forth in its plan submitted under the provisions of G.S. 160A-35(3)a on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation, and
- (2) If at the time the writ is sought such services set forth in the plan submitted under the provisions of G.S. 160A-35(3)a are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the judge of superior court

- (1) If the plans submitted under the provisions of G.S. 160A-35(3)c require

the construction of major trunk water mains and sewer outfall lines and

(2) If contracts for such construction have not yet been let.

If a writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved person, shall be charged to the municipality. (1959, c. 1010, s. 5; 1967, c. 1226, s. 1; 1973, c. 426, s. 74.)

§ 160A-38. Appeal. — (a) Within 30 days following the passage of an annexation ordinance under authority of this Part, any person owning property in the annexed territory who shall believe that he will suffer material injury by reason of the failure of the municipal governing board to comply with the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-36 as they apply to his property may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board.

(b) Such petition shall explicitly state what exceptions are taken to the action of the governing board and what relief the petitioner seeks. Within five days after the petition is filed with the court, the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within 15 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the municipality shall transmit to the reviewing court

- (1) A transcript of the portions of the municipal journal or minute book in which the procedure for annexation has been set forth and
- (2) A copy of the report setting forth the plans for extending services to the annexed area as required in G.S. 160A-35.

(d) If two or more petitions for review are submitted to the court, the court may consolidate all such petitions for review at a single hearing, and the municipality shall be required to submit only one set of minutes and one report as required in subsection (c).

(e) At any time before or during the review proceeding, any petitioner or petitioners may apply to the reviewing court for an order staying the operation of the annexation ordinance pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

(f) The court shall fix the date for review of annexation proceedings under this Chapter, which review date shall preferably be within 30 days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. The court may hear oral arguments and receive written briefs, and may take evidence intended to show either

- (1) That the statutory procedure was not followed or
- (2) That the provisions of G.S. 160A-35 were not met, or
- (3) That the provisions of G.S. 160A-36 have not been met.

(g) The court may affirm the action of the governing board without change, or it may

- (1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.
- (2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-36 if it finds that the provisions of G.S. 160A-36 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.
- (3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-35 are satisfied.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within three months from receipt of such instructions, the annexation proceeding shall be deemed null and void.

(h) Any party to the review proceedings, including the municipality, may appeal to the Supreme Court from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall be appropriate, pending the outcome of the appeal to the Supreme Court; provided, that the superior court may, with the agreement of the municipality, permit annexation to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into the city without regard to any part of the area concerning which an appeal is being made.

(i) If part or all of the area annexed under the terms of an annexation ordinance is the subject of an appeal to the superior or Supreme Court on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the date of the final judgment of the superior or Supreme Court, whichever is appropriate, or the date the municipal governing board completes action to make the ordinance conform to the court's instructions in the event of remand. (1959, c. 1010, s. 6; 1973, c. 426, s. 74.)

§ 160A-39. Annexation recorded. — Whenever the limits of a municipality are enlarged in accordance with the provisions of this Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. (1959, c. 1010, s. 7; 1973, c. 426, s. 74.)

§ 160A-40. Authorized expenditures. — Municipalities initiating annexations under the provisions of this Part are authorized to make expenditures for surveys required to describe the property under consideration or for any other purpose necessary to plan for the study and/or annexation of unincorporated territory adjacent to the municipality. In addition, following final passage of the annexation ordinance, the annexing municipality shall have authority to proceed with expenditures for construction of water and sewer lines and other capital facilities and for any other purpose calculated to bring services into the annexed area in a more effective and expeditious manner prior to the effective date of annexation. (1959, c. 1010, s. 8; 1973, c. 426, s. 74.)

§ 160A-41. Definitions. — The following terms where used in this Part shall have the following meanings, except where the context clearly indicates a different meaning:

(1) "Contiguous area" shall mean any area which, at the time annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina.

(2) "Used for residential purposes" shall mean any lot or tract five acres or less in size on which is constructed a habitable dwelling unit. (1959, c. 1010, s. 9; 1973, c. 426, s. 74.)

§ 160A-42. Land estimates. — In determining degree of land subdivision for purposes of meeting the requirements of G.S. 160A-36, the municipality shall use methods calculated to provide reasonably accurate results. In determining whether the standards set forth in G.S. 160A-36 have been met on appeal to the superior court under G.S. 160A-38, the reviewing court shall accept the estimates of the municipality:

- (1) As to total area if the estimate is based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable map used for official purposes by a governmental agency unless the petitioners on appeal demonstrate that such estimates are in error in the amount of five percent (5%) or more.
- (2) As to degree of land subdivision, if the estimates are based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of five percent (5%) or more. (1959, c. 1010, s. 10; 1973, c. 426, s. 74.)

§ 160A-43. Effect of Part on other laws. — From and after July 1, 1959, this Part shall be in full force and effect with respect to all municipalities having a population of less than 5,000 persons according to the last preceding federal decennial census. The provisions of Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina shall remain in full force and effect with respect to such municipalities as an alternative procedure until June 30, 1962. From and after July 1, 1962, all the provisions of Part 1 of Article 36 of Chapter 160 of the General Statutes of North Carolina, with the exception of G.S. 160-452 [G.S. 160A-31] as it exists at the time of the passage of this Part or as it may be amended at this session of the General Assembly, shall be repealed. Insofar as the provisions of this Part are inconsistent with the provisions of any other law, the provisions of this Part shall be controlling. (1959, c. 1010, s. 11; 1961, c. 655, s. 1; 1967, c. 1226, s. 2; 1973, c. 426, s. 74.)

§ 160A-44. Counties excepted from Part; Part 1 continued for such counties. — The provisions of this Part shall not apply to the following counties: Alleghany, Edgecombe, Halifax, Iredell, Nash, except for the towns of Nashville, Spring Hope, Castalia and Middlesex, Pender, Perquimans and Person, provided the provisions of this Part shall apply to the towns of Whitakers, Sharpsburg, and Battleboro in Edgecombe and Nash Counties. This Part shall not apply to the town of King in Stokes County, nor to the town of Pilot Mountain in Surry County.

Notwithstanding any other provisions of this Part, Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina and specifically G.S. 160A-31 as the same may be rewritten or amended, shall remain in full force and effect as to the counties herein named. (1959, c. 1010, s. 12; 1961, c. 1081; 1965, cc. 782, 875; 1967, c. 156, s. 1; 1969, c. 438, s. 1; c. 1232; 1971, c. 28; 1973, c. 426, s. 74.)

E. ENVIRONMENTAL CONSIDERATIONS

Pursuant to the requirements and guidelines on the National Environmental Policy Act, the Council on Environmental Quality, the U. S. Department of Housing and Urban Development, and the North Carolina Environmental Policy Act, the following is a summary of environmental considerations regarding this annexation study.

1. Abstract: This study has been prepared to assist the Town of Highlands in reviewing the feasibility of annexation proposed in a prior annexation study, as well as in exploring alternatives to the recommendations made in the earlier study.
2. Environmental Impact: If any or all of the annexations occur, they would likely have a favorable impact because a) municipal services would be extended to presently unserved areas; b) a larger tax base would be created, thereby allowing the Town to provide a higher quality of services and facilities both within its present limits and in the proposed annexation areas; c) annexation would help to guide and direct growth beyond the town limits.
3. Adverse Environmental Effects: There are no adverse environmental effects anticipated as a direct result of annexation.
4. Alternatives: If Highlands does not annex, its ability to control and to service urban growth areas would be significantly limited.
5. Relationship Between Short-Term Uses of Man's Environment and Maintenance of Long-Term Productivity. Land and water productivity should be maintained by minimizing land and water activities (for example, improved management of solid waste disposal).

6. Irreversible Commitments of Resources. None
7. Applicable Federal, State and Local Environmental Controls. All Federal, State and local environmental controls currently being enforced will be applicable to any annexation in the planning area.
8. Mitigation Measures. Not applicable since undesirable environmental consequences of annexation are not anticipated.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1975
RATIFIED BILL

CHAPTER 847

SENATE BILL 916

AN ACT TO ALLOW COMPENSATION FOR THE TAKING OF WATER AND SEWER FACILITIES BY POLITICAL SUBDIVISIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 40 of the General Statutes is amended by adding a new Section 40-30 reading as follows:

"§ 40-30. Compensation for taking of water and sewer facilities by political subdivisions.--Upon the filing of a petition or complaint in inverse condemnation by a privately owned public utility certificated by the North Carolina Utilities Commission to provide water or sewer service, or both, alleging that a political subdivision of the State has constructed or installed, or threatens to construct or install, duplicating facilities for providing services similar to those provided by said public utility, or upon the filing of a petition by a political subdivision to condemn property and facilities of such a public utility, then the court shall, upon finding (1) that the facilities of the complainant public utility are of such an age, quality of materials, and size of facilities to be readily integrated into the system of said political subdivision, and (2) that said political subdivision has in effect in the area served by said complainant public utility an ordinance requiring connection of all developed properties to its system, declare the action or threatened action of the political subdivision to be a

taking of property for a public use, and shall fix just compensation therefor.

The compensation fixed by a court pursuant to this section shall not exceed the actual original dollar cost of the property of the public utility, less accumulated depreciation using a straight-line method of depreciation. In diminution of said actual original dollar cost, less accumulated depreciation, the court shall consider the following factors in fixing just compensation:

1. The useful value of the property to the political subdivision, considering its age, quality of materials, and degree of compatibility with the system of the political subdivision;
2. The amounts of any tap fees, connection fees, or any other payments to defray the cost of construction of the public utility system, if paid by any person other than the public utility or its predecessors in title;
3. Any inadequacy of consideration paid for, or any gift of, property for which compensation is sought;
4. The reasonable salvage value of property which the public utility has salvaged or which can reasonably be salvaged by the public utility.

Certified copies of pertinent records of the North Carolina Utilities Commission shall be made available to the court upon request in order to aid the court in determining just compensation pursuant to this section."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

JAMES B. HUNT, JR.

James B. Hunt, Jr.

President of the Senate

JAMES C. GREEN, SR.

James C. Green, Sr.

Speaker of the House of Representatives



STATE OF NORTH CAROLINA

JAMES B. HUNT, JR.
GOVERNOR

DEPARTMENT OF HUMAN RESOURCES

JACOB KOOMEN, M.D., M.P.H.
DIRECTOR

RAH T. MORROW, M.D., M.P.H.
SECRETARY

Division of Health Services

WESTERN REGIONAL OFFICE
WESTERN NORTH CAROLINA SANATORIUM
BUILDING 3
BLACK MOUNTAIN, N.C. 28711

April 7, 1977

Mr. David Long
P.O. Box 370
Asheville, NC 28802

Re: Highlands Country Club
Water System
Macon County

Dear Mr. Long:

In response to your request regarding the status of the referenced water supply system, the following information is provided.

The Highlands Country Club water system has never been approved as a public water system. Plans and specifications for the system were submitted as required by law. However, neither of the two wells providing water to the system can be approved as they do not meet criteria for location as specified in current rules and regulations. If the town of Highlands connects a main to this system, the two wells will have to be disconnected to avoid the interconnection of water from an approved source and from an unapproved source.

In spite of its unapproved status, the current system appears to be well maintained and has an excellent sampling record. That is, all required monthly samples of water for bacteriological analysis have been submitted on time and there has never been a bad sample.

If you need further information, please feel free to contact this office.

Very truly yours,
James W. Bloom
James W. Bloom
Sanitary Engineering Technician

Copy to: Mr. W. J. Stevenson
Macon County Health Department



